



July 21, 2010
22M:393:mem:1047



Arnold Schwarzenegger
Governor

Mr. Jeffrey Rowe, Director
Stanislaus County Alliance Worknet
251 E. Hackett Road, C-2
P.O. Box 3389
Modesto, CA 95358-0031

Dear Mr. Rowe:

AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)
SUMMER YOUTH PROGRAM
FINAL MONITORING REPORT
PROGRAM YEAR 2009

This is to inform you of the results of our review for Program Year (PY) 2009 monitoring review of the Stanislaus County Alliance Worknet's (Stanislaus AW) ARRA Summer Youth Program (SYP). This review was conducted by Ms. Molly Maloney from August 24, 2009, through August 28, 2009. Our review consisted of interviews with your staff and a review of the following items: expenditures charged to the ARRA SYP, oversight of your subrecipients, and procurement transactions. In addition, we interviewed service provider staff, SYP participants, and worksite supervisors, and focused on the following areas of your ARRA SYP: eligibility determination, program operations, participant worksites, participant payroll processing, and oversight.

Our review was conducted under the authority of Section 667.410(b)(1), (2) & (3) of Title 20 of the Code of Federal Regulations (20 CFR). The purpose of this review was to determine the level of compliance by Stanislaus AW with applicable federal and state laws, regulations, policies, and directives related to the ARRA grant.

This report includes the results of our review of sampled case files, the interviews conducted, Stanislaus AW's response to Sections I and II of the ARRA SYP On-site Monitoring Guide, and a review of applicable policies and procedures for PY 2009.

We received your response to our draft report on January 12, 2010, and reviewed your comments and documentation before finalizing this report. Because your response adequately addressed the findings one and four cited in the draft report, no further action is required and we consider these issues resolved.

Additionally, your response adequately addressed findings two and three cited in the draft report, therefore, no further action is required at this time. For finding two we requested that Stanislaus AW provide Compliance Review Office (CRO) with the results of its request for response from the reference participant. Finding three will remain open until we verify the implementation of your stated corrective action plan during a future on-site review. Until then, these findings are assigned Corrective Action Tracking System (CATS) numbers 10055 and 10056.

BACKGROUND

The Stanislaus AW allocated \$3,885,095 to serve 950 summer youth program participants. As of September 15, 2009, Stanislaus AW expended \$2,023,000 to serve 947 summer youth program participants.

ARRA SYP REVIEW RESULTS

While we concluded that, overall, Stanislaus AW is meeting applicable ARRA requirements, we noted instances of noncompliance in the following areas: work permit, breaks, uninitialed time card edits, and payroll overpayment. The findings that we identified in these areas, our recommendations, and the Stanislaus AW proposed resolution of the findings are specified below.

FINDING 1

Requirement:

California Code of Regulations, Title 8, Section 11040 states, in part, that every employer shall authorize and permit all employees to take rest periods. The rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period was not provided.

California Labor Code Section 226.7(a) states that no employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.

Observation:

We observed that one ARRA Summer Youth Program worksite, Beyer High School, did not give rest breaks to summer youth participants during eight (8) hour shifts. The worksite supervisor disclosed during an interview that she believed she was not required to provide rest breaks to the participants working for her. Further, a participant working at this site disclosed during an

interview that she was not provided rest periods during her eight (8) hour shifts.

Recommendation: We recommended that Stanislaus AW audit the time for all summer youth participants who worked at Beyer High School to determine how many days each participant was not provided a rest break. Additionally, we recommended that Stanislaus AW compensate, out of non-WIA funds, each participant one (1) hour at the participant's regular rate of compensation for each day that a rest period was not provided. We asked Stanislaus AW to please provide the CRO documentation when this was complete. Additionally, we asked Stanislaus to please provide CRO a CAP indicating how it will ensure this does not happen in the future.

**Stanislaus AW
Response:**

The Stanislaus AW stated that they met with the staff whose worksite was referenced in the finding. The Stanislaus AW staff determined whether or not a rest break was given by sending a written questionnaire to the participant in question and to the other four participants placed at the same worksite; the questionnaire asked if they were given rest breaks while employed at the Beyer High School worksite over the summer. All participants, including the individual interviewed by CRO staff, who had stated that she didn't receive rest breaks, responded that they had rest breaks while they were employed at their summer youth program worksite. Enclosed were the participant questionnaire responses. Additionally, the Stanislaus AW stated that it continues to communicate with, and remind all service providers and contractors about WIA training requirements and/or important information that would enhance program success, as well as compliance with WIA requirements, laws and regulations through AW's Contractor Alert system. Consequently, they have sent out the latest Alert (# 09-11), to all AW service providers to be cognizant of work break rules as outlined in Title 8, section 11040 of the California Code of Regulations and California Labor Code Section 226.7(a).

State Conclusion: We consider this finding resolved.

FINDING 2

Requirement: 29 CFR 97.20(a) states, in part, that fiscal control and accounting procedures of subgrantees must be sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Section (b)(2) states, in part, that subgrantees must maintain records which adequately identify the source and application of funds for financially-assisted

activities. Section (b)(3) states, in part, that effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Section (b)(6) requires that accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records.

OMB Circular A-87, Attachment B, (8)(h)(5) states, in part, that personnel activity reports or equivalent documentation must reflect an after-the-fact distribution of the actual activity of each employee and they must account for the total activity for which each employee is compensated.

California Code of Regulations, Title 8, Section 11040 states, in part, that every employer shall keep accurate information with respect to each employee including time records showing when the employee begins and ends each work period, meal periods, and total daily hours worked. Additionally, no employer shall employ any person for a work period of more than five (5) hours without a meal period, of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period was not provided.

California Labor Code Section 226.7(a) states that no employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.

California Labor Code Section 512(a) states, in part, that an employer may not employ an employee for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six (6) hours.

Observation:

We observed that timesheets for ARRA SYP participants do not accurately represent payment for time worked. We found that one (1) timesheet contained a mathematical error that caused a participant to be paid for an hour not actually worked.

Additionally, we observed one participant enrolled in Stanislaus AW's in-house service provider, Careerquest, was given a 15 minute meal break during an eight (8) hour shift on July 24, 2009. Subsequent to our on-site review, Stanislaus AW provided a corrected time card for the participant showing a 30 minute meal break for the day in question. However, the correction on the timecard was not initialed by the participant and there is no indication that the participant agrees that the correction accurately reflects what actually happened. Furthermore, the correction is initialed by someone with the initials C.A. Those initials are not the same as the worksite supervisor who signed the time card originally.

Recommendation: Regarding the overpaid participant, we recommended that Stanislaus AW provide CRO documentation showing that the pay for the participant was adjusted so that the participant was paid all money owed, and WIA was not charged for wages paid, but not actually owed. Regarding the participant given the shortened meal break, we recommended that Stanislaus AW either provide CRO with verification that the participant agrees with the corrected time card or compensate, out of non-WIA funds, this participant one (1) hour at the participant's regular rate of compensation for the day that a 30 minute meal period was not provided during an eight (8) hour shift. Please provide the CRO documentation when these actions are complete. Additionally, we asked Stanislaus AW to please provide CRO a CAP indicating how it will ensure this does not happen in the future.

**Stanislaus AW
Response:**

The Stanislaus AW stated that it has made the necessary and required adjustments to ensure that WIA was not charged for the overpayment resulting from an inadvertent mathematical error. Stanislaus AW provided documentation of this adjustment.

The Stanislaus AW stated that, for the participant supposedly given a short lunch break (fifteen (15) minutes), her worksite supervisor confirmed that the participant took her full thirty (30) minute lunch break instead of the fifteen (15) minutes reflected on the July 24, 2009 time card. However, all attempts to reach the participant, so she could come to AW office to initial the correction, have been unsuccessful. In spite of the participant's unwillingness to cooperate, AW staff continues to find new ways to reach the participant. The latest step staff has taken to resolve this stalemate is by sending the participant a certified letter. On Wednesday, January 6, 2010, a certified letter stating that the participant's worksite supervisor had confirmed, to her case manager, that the fifteen (15) minute lunch break reflected on her time card was in

error, and that she (the participant) did take her full thirty (30) minute lunch break on the date in question. The letter further states that if she agrees with this statement, no response would be necessary. However, she had up till Wednesday, January 13, 2010 to respond, if she disagreed with the supervisor's statement.

Documentation of case notes reflecting attempts to contact the participant, the letter and the certified mail receipt were provided.

State Conclusion: The Stanislaus AW's stated corrective action should be sufficient to resolve this issue and no further corrective action is required. Please provide CRO with the participant's response, if any, to Stanislaus AW's correspondence. Until then, this issue remains open and has been assigned CATS number 10055.

FINDING 3

Requirement: 29 CFR 97.20(a) states, in part, that fiscal control and accounting procedures of subgrantees must be sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Section (b)(2) states, in part, that subgrantees must maintain records which adequately identify the source and application of funds for financially-assisted activities. Section (b)(6) requires that accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records.

OMB Circular A-87, Attachment B, (8)(h)(5) states, in part, that personnel activity reports or equivalent documentation must reflect an after-the-fact distribution of the actual activity of each employee, they must be prepared at least monthly and must coincide with one or more pay periods, and they must be signed by the employee.

California Code of Regulations, Title 8, Section 11040 states, in part, that every employer shall keep accurate information with respect to each employee including time records showing when the employee begins and ends each work period, meal periods, and total daily hours worked.

Observation: We observed that of the thirty-two ARRA SYP timesheets reviewed, we found that seventeen contained changes that were not initialed. As a result, we cannot determine if the participants were aware of or in agreement with the time charges or corrections.

Recommendation: We recommended that Stanislaus AW provide CRO a CAP to establish policy and procedures to ensure time worked is accurately charged to WIA funds. This should include a requirement that timesheets are reviewed for completeness and that changes to timesheets are initialed.

Stanislaus AW Response: The Stanislaus AW stated that, consistent with their continuous improvement strategy, as well as the enhancement of program efficiency and effectiveness, contractors and service providers are constantly reminded of Stanislaus AW policies and procedures. Work experience time sheets have always conveyed the requirement that timecards must be reviewed for completeness and thoroughness, and that all changes made to the timecards must be initialed. The recent Alert sent to Stanislaus AW's service providers and contractors has further emphasized this requirement. The Stanislaus AW provided documentation of the updated timesheets and the contractor alert.

State Conclusion: The Stanislaus AW's stated corrective action should be sufficient to resolve this issue and no further corrective action is required. However, we cannot close this issue until we verify, during a future on-site visit, Stanislaus AW's successful implementation of its stated corrective action. Until then, this issue remains open and has been assigned CATS number 10056.

FINDING 4

Requirement: California Labor Code Section 1299 states, in part, every person, or agent or officer thereof, employing minors, either directly or indirectly through third persons, shall keep on file all permits and certificates, either to work or to employ.

Observation: We observed an in-school younger youth (age 15) case file of subrecipient, Ceres Unified School District, had an expired work permit in the file. The work permit expired August 3, 2009 while the youth participant worked through August 7, 2009.

Recommendation: We recommended that Stanislaus AW provide CRO with a CAP stating how it will ensure that, in the future, work permits are current for all in-school younger youth that are placed in employment services.

Stanislaus AW Response: The Stanislaus AW stated that per our recommendation, modifications have been instituted in their youth worksite handbook, youth work experience participant handbook, work experience

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employer handbook, and work experience participant handbook.
The updated handbooks were provided for review.

State Conclusion: We consider this finding resolved.

Due to the short period of time the 2009 SYP was in operation the above corrective actions were requested in the exit conference in order that corrective action could be taken immediately. We are providing you up to 20 working days after receipt of this report to submit to the Compliance Review Office your response to this report.

Because we faxed a copy of this report to your office on the date indicated above, we request your response no later than August 18, 2010. Please submit your response to the following address:

Compliance Monitoring Section
Compliance Review Office
722 Capitol Mall, MIC 22M
P.O. Box 826880
Sacramento, CA 94280-0001

In addition to mailing your response, you may also FAX it to the Compliance Monitoring Section at (916) 654-6096.

Because the methodology for our monitoring review included sample testing, this report is not a comprehensive assessment of all the areas included in our review. It is Stanislaus AW's responsibility to ensure that its systems, programs, and related activities comply with the ARRA grant program, Federal and State regulations, and applicable State directives. Therefore, any deficiencies identified in subsequent reviews, such as an audit, would remain Stanislaus AW's responsibility.

Please extend our appreciation to your staff for their cooperation and assistance during our review. If you have any questions regarding this report or the review that was conducted, please contact Ms. Mechelle Hayes at (916) 654-1292.

Sincerely,



JESSIE MAR, Chief
Compliance Monitoring Section
Compliance Review Office

cc: Greg Gibson, MIC 50
Jose Luis Marquez, MIC 50
Daniel Patterson, MIC 45
Roger Schmitt, MIC 50